

PULIDO-CROWE

OLGA A. PULIDO-CROWE

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UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

In Re Adams Golf, Inc.                     )  
Securities Litigation                         ) No. 99-37 KAJ  
  )  
  )

DEPOSITION OF OLGA A. PULIDO-CROWE

WEDNESDAY, MAY 17, 2006

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<p style="text-align: right;">Page 18</p> <p>1 its products Directly supervised my team, guided  2 them in everything -- gathering information that we  3 needed.  4 Q What information did you direct them to  5 gather?  6 A Well, we have -- if I may refer to our due  7 diligence outline and request list as part of this  8 organizational meeting  9 MR. CHEPIGA: Would you identify the page  10 you're referring to, or pages?  11 THE WITNESS: It is Page --  12 MR. CHEPIGA: The number at the bottom, the  13 Bates number.  14 THE WITNESS: The UND number?  15 MR. CHEPIGA: Right.  16 THE WITNESS: UND 08741 Due Diligence  17 Outline/Request List put together of information that  18 we need to review and study and collect.  19 MR. CHEPIGA: 412 --  20 THE WITNESS: 08741 through 08748.  21 BY MS. LELAND:  22 Q And did you prepare this list?  23 A Did I prepare it or did I actually write it,  24 that type of thing? I don't know if I actually wrote  25 it, but I certainly was involved in going through</p>	<p style="text-align: right;">Page 20</p> <p>1 it And can it make the product in substantial  2 numbers to meet demand? Is it creating demand for the  3 product? Is it meeting that demand?  4 Q "Size of market share of competitors." Seems  5 self-explanatory, but could you go through it quickly?  6 A We looked at who else is out there in the  7 golf club market, what are their size, what are  8 their -- in terms of how large are they, how much  9 product do they supply, what's their market share,  10 what types of products, that kind of thing.  11 Q And from where did you gather this  12 information?  13 A From numerous sources. Publicly available  14 information. The major competitors that were publicly  15 traded at the time were Callaway Golf -- and I don't  16 recall if Cobra was still publicly traded or not. But  17 they also have information on market share  18 information.  19 And then we look at, you know, others that  20 are in the market, survey lots of different sources in  21 terms of an extensive research capacity to who's out  22 there making golf clubs and other sports equipment,  23 that kind of thing.  24 So we would survey that and deem who are the  25 most closely competitive to the company and who's out</p>
<p style="text-align: right;">Page 19</p> <p>1 every line item on this list.  2 Q And you approved the list.  3 A Yes.  4 Q Would that be accurate?  5 At Page 8742, which is 20 of the memo, if --  6 I don't know which is easier.  7 A Okay.  8 Q Under the topic "Business review," Section C  9 identifies major strategic issues facing the company.  10 A Mm-hmm.  11 Q Were you involved in compiling the list of  12 strategic issues facing the company?  13 A Yes.  14 Q What is meant by -- and just briefly, what's  15 meant by "technological change"?  16 A Factors that occur in the market that --  17 in this particular case, we would be talking about,  18 are there new materials that are introduced? Are  19 there new manufacturing processes that are introduced?  20 That kind of thing.  21 Q And "supply and demand for product," what is  22 meant by that?  23 A Supply and demand for product, can the  24 manufacturer -- in this case, Adams -- get everything  25 that it needs to make the product? I include that in</p>	<p style="text-align: right;">Page 21</p> <p>1 there coming up as well, because we look at the growth  2 companies. And we were in touch with a lot of the  3 newer companies that were similar to Adams coming into  4 the market.  5 Q Skipping ahead a couple, included on the list  6 is a category for "other short- and long-term risk";  7 correct?  8 A Yes.  9 Q What is meant by that?  10 A It could cover numerous things. It's a  11 catchall category, if you will. Much of it has to do  12 with competition. It could also relate to any of the  13 factors that are listed here as well. We would look  14 at -- let me see just one second.  15 Q That's fine. Take your time.  16 A Okay.  17 (Witness examines document)  18 "Other short- and long-term risk." Most of  19 the items are included here, but it's anything else  20 that might impact. And we -- normally when we ask  21 this question, we could ask the question and think  22 about what else might impact this company and could  23 create risk for this company.  24 Q In the context of Adams Golf specifically,  25 what issues came up under this category, if any?</p>

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<p>1 A. Under this category specifically, I --  2 I don't recall. I believe most of them are  3 all-encompassing under the major strategic issues.  4 But we would have looked at, you know, can they get  5 enough employees? You know, what does the market look  6 like here in terms of people that they might be able  7 to hire if their demand was increasing? Could they  8 get the labor, the workforce to do so? Would the  9 workforce be trained efficiently enough? Because to  10 handle the call centers, to handle the custom-made  11 golf-type things, what do they have?  12 That would be some of the things that we  13 would look at.  14 Q Do you recall if the topic of gray marketing  15 came up under this category or in any other context?  16 A. Gray marketing came -- the topic of gray  17 marketing did come up during our discussions. It  18 wasn't a primary term, you know, that we use. But the  19 issues of gray marketing did come up and was looked at  20 under these categories.  21 Q Who looked at them?  22 A. Our -- myself and our team. It's all part  23 of, you know, what is out there in terms of the --  24 what the company is facing and what's material.  25 And I think, for Adams, the primary risk was</p>	<p>1 Q. You said you spoke with the company and their  2 sales force  3 A. Mm-hmm.  4 Q. Who did you speak with?  5 A. Well, as part of the due diligence process,  6 you know, we speak with management of the company.  7 And that would have been, I think -- well, I was going  8 to refer to one of the documents we have here, a list  9 of names.  10 Q. Feel free to refer back.  11 A. Okay. Well, if we look at the agenda --  12 Q. Are you looking at Exhibit 143?  13 A. Yeah, Page -- is this 153? Yes. Page 8724.  14 Q. Okay.  15 A. So we spoke with Barney Adams, Jim Farrell,  16 Walt DeVault, Mark Gonsalves -- and I'm just reading  17 from this list -- Dick Murtland, Steve Sanozaro. And  18 those were the formal discussions.  19 We would also speak to people when we --  20 when we were present at the site. You know, as you're  21 there, you would talk to people that you would run  22 into, basically, and ask them, "How do you like" --  23 "What do you think?" "What's going on?" There were  24 random discussions that we would have that were off  25 the official list of people.</p>
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<p>1 new product introduction and competition from  2 competitors, competitive lines of golf clubs. That  3 was one of the primary risks and most material.  4 Q. When you say that you and your team looked at  5 gray marketing, what exactly did you do in looking at  6 gray marketing?  7 A. Well, we did a number of things. Gray  8 marketing was not -- we weren't saying, "Let's look at  9 gray marketing." We were saying, "Let's look at the  10 issues surrounding the market for the clubs and how  11 Adams distributes them."  12 And so we did numerous things. We spoke, of  13 course, to the company and their sales force and their  14 salespeople. We did due diligence with their  15 customers, their dealers. We talked to, you know,  16 other -- I guess I have a lot of anecdotal evidence  17 that I would do personally as well and when we look at  18 all of these issues facing Adams.  19 So besides looking at information provided by  20 the company and talking to the company and talking to  21 third parties and verifying what we were learning,  22 there was other anecdotal evidence, I guess you might  23 say, that I know I personally did.  24 Q. Okay. Let me go back to a couple of things.  25 A. Okay.</p>	<p>1 Q. When you spoke with the folks on the official  2 list, did the topic of gray marketing ever come up?  3 A. In the -- in the context of what are the  4 risks facing the company and in the context of what --  5 looking at the dealers and the sales process.  6 Again, it wasn't -- gray marketing itself,  7 we didn't -- it's not something that -- it was part of  8 it. We definitely talked about it, but it wasn't a  9 significant, material issue. There were a lot of  10 other terms used for that in looking at that issue.  11 I -- my term is "stuffing the channels," that kind of  12 thing. What are we doing -- that was one of the ways  13 that we would look at that. And a lot of that would  14 be explored also when we spoke to the -- the retailers  15 and did our due diligence of customers.  16 Am I answering that?  17 Q. I think so, and I -- I know you're trying,  18 and you're doing a great job.  19 A. Okay.  20 Q. When you spoke with the people listed on  21 Page 2 of the memo, 8724, did any of them tell you  22 that gray marketing was affecting Adams Golf or that  23 it wasn't affecting Adams Golf? Just trying to get  24 the idea of the nature of the communications  25 A. Was affecting? I mean, I wouldn't use that</p>

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<p>1 term, "affecting." Gray marketing is a factor in --</p> <p>2 in manufacturing and retailing. It's something that</p> <p>3 everybody faces. How do the products get to</p> <p>4 unauthorized markets? It's in the newspapers every</p> <p>5 day. We see it with videos and CDs and, you know,</p> <p>6 rip-offs here and there of -- how did that movie</p> <p>7 get -- you know, DVD get out there on a movie that</p> <p>8 hasn't been released yet? It's an issue that just</p> <p>9 about everybody faces</p> <p>10 So, yes, it was discussed and mentioned in</p> <p>11 that respect.</p> <p>12 Q. When you were doing your work with Cobra,</p> <p>13 was gray market an issue back then?</p> <p>14 A. It's not -- I don't like the term "issue"</p> <p>15 It's a -- something that's present definitely in the</p> <p>16 market.</p> <p>17 So I would say, for Cobra, you know, where</p> <p>18 the clubs were showing up, yes, that was discussed and</p> <p>19 how would people get them. It was more in the context</p> <p>20 of, Are these knockoffs? You know, what is it that's</p> <p>21 out there? And are there knockoffs being made or</p> <p>22 fakes? You know, that kind of thing, that -- and</p> <p>23 who's doing it, and is that a huge problem? How do</p> <p>24 you protect your name, your brand from these rip-offs,</p> <p>25 like the Gucci bags that are not real Gucci bags, that</p>	<p>1 confirm that it was April 19 --</p> <p>2 Q. And I think I've got some documents in here</p> <p>3 somewhere.</p> <p>4 A. Okay.</p> <p>5 Q. Do you recall who it was from Adams who</p> <p>6 advised you that the clubs were at Costco?</p> <p>7 A. My recollection of exactly whom it was is</p> <p>8 unclear. I can't say if it was Barney, if it was</p> <p>9 Mark, if it was Jim. I don't remember who exactly it</p> <p>10 was, but I do remember discussing the issue.</p> <p>11 Q. Can you take a quick look back at</p> <p>12 Exhibit 152 --</p> <p>13 A. Okay.</p> <p>14 Q. -- at Page 3 of the memo, which is</p> <p>15 Bates-number Page 6028.</p> <p>16 A. Okay.</p> <p>17 Q. Paragraph D, "Due diligence."</p> <p>18 A. Okay.</p> <p>19 Q. Could you go ahead and read that.</p> <p>20 (Witness examines document)</p> <p>21 A. March 24th. Okay.</p> <p>22 (Witness examines document)</p> <p>23 Okay.</p> <p>24 Q. Does that paragraph refresh your</p> <p>25 recollection --</p>
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<p>1 kind of thing?</p> <p>2 You know, that was a lot of the context that</p> <p>3 was -- that we discussed that kind of thing.</p> <p>4 Q. And at the time that you were working with</p> <p>5 Cobra, did they actually have product in the gray</p> <p>6 market?</p> <p>7 A. I don't -- I don't recall. I would --</p> <p>8 I guess I don't recall. I would assume, because</p> <p>9 almost everybody has that issue.</p> <p>10 Q. Okay. At the time of the Adams IPO -- let me</p> <p>11 rephrase that.</p> <p>12 At the time you were working with Adams to do</p> <p>13 the underwriting, were you aware of any Adams product</p> <p>14 in the gray market?</p> <p>15 A. We were -- we discussed the Costco issue,</p> <p>16 that clubs had appeared at a Costco. I don't remember</p> <p>17 the location, but someone had seen some -- what were</p> <p>18 purported to be Adams Golf clubs at a Costco</p> <p>19 Q. Do you recall when this discussion occurred?</p> <p>20 A. I don't recall exactly, but it was during</p> <p>21 our -- probably one of our drafting sessions or one of</p> <p>22 our due diligence calls.</p> <p>23 Q. And these drafting sessions occurred in April</p> <p>24 of 1998; is that correct?</p> <p>25 A. I would have to refer back to the schedule to</p>	<p>1 A. Yes.</p> <p>2 Q. -- concerning --</p> <p>3 MR. CHEPIGA: Let her finish the question.</p> <p>4 THE WITNESS: Oh</p> <p>5 BY MS. IELAND:</p> <p>6 Q. In looking at this, can you now pinpoint a</p> <p>7 date when the discussion of gray marketing that you</p> <p>8 just mentioned occurred?</p> <p>9 A. I can't pinpoint an exact date other than to</p> <p>10 say it might have been March 24th, April 21st,</p> <p>11 April 27th.</p> <p>12 Q. Do you believe it was at one of these</p> <p>13 meetings identified here?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And what exactly, to the best of your</p> <p>16 recollection, was discussed concerning the gray</p> <p>17 marketing?</p> <p>18 A. There was -- the focus was Costco, that the</p> <p>19 clubs found at -- believed to have been found at</p> <p>20 Costco. And we asked, "How did they get to Costco?"</p> <p>21 Do you know how they got to Costco?"</p> <p>22 And the company thought they -- thought they</p> <p>23 might know how they got there, but they weren't sure</p> <p>24 and they were going to look into it. It wasn't a</p> <p>25 large number of clubs. They thought they knew who --</p>

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<p>1 how they got there, and they were going to put a stop 2 to that, that dealer/distributor. And we talked about 3 filing some type of motion or suit -- and I apologize 4 I don't know the correct term -- with Costco to -- to 5 stop that or find out where they got it, that kind of 6 thing. 7 Q. Do you recall what dealer/distributor the 8 Adams Golf people thought was selling the clubs to the 9 gray market? 10 A. No, I don't. I don't recall. But it seemed 11 like they suspected it might be one, but I don't 12 remember. 13 Q. Does King Par ring a bell? 14 A. No, I'm sorry. I don't know who. 15 Q. That's perfectly fine. I want you to answer 16 to the best that you can. Don't try to guess. 17 A. Okay. 18 Q. Do you recall what customers were interviewed 19 concerning Adams gray marketing? 20 A. I recall what customers we interviewed when 21 we did -- as part of our due diligence process and 22 discussing with them their entire relationship with 23 Adams Golf. 24 Q. Which -- can you give me the names of any of 25 those customers?</p>	<p>1 Q. Sure. 2 A. It's back in this; right? 3 Q. I believe so. 4 A. I don't -- I would have to be reminded. 5 I don't -- I don't recall. 6 Q. I believe his official title was director of 7 international sales. 8 A. I don't recall. Most likely we would, but I 9 don't recall. 10 Q. Okay. And for something on that level, was 11 that the type of thing that you had your assistants or 12 people working with you -- 13 MR. CHEPIGA: Excuse me. What type of thing? 14 MS. LELAND: In talking with the Adams Golf 15 staff as part of the due diligence 16 THE WITNESS: It depends. It could be me. 17 It could be my team. It could -- 18 BY MS. LELAND: 19 Q. Mr. Walravens, perhaps? 20 A. It could have been 21 Q. Okay. 22 A. And I might have as well. I just don't 23 recall. 24 Q. That's perfectly fine. 25 A. Okay.</p>
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<p>1 A. I would have to refer to -- 2 Q. That's fine. 3 A. -- actually, our -- actually, I'm not sure 4 where they would be listed here -- other than our 5 notes. But I remember Golfsmith being one, because 6 that was another client that we were -- potential 7 client we were talking to. And there were numerous 8 others, but I have to refer to a list -- 9 Q. Okay. 10 A. -- to remember names other than Golfsmith. 11 Q. Okay. That's fine. I'm sure somewhere in 12 here, I've got a list. 13 Quickly, off the top of your head, do you 14 recall ever speaking with anyone at WDC Mackenzie? 15 A. I don't think so. 16 Q. Okay. They were the Canadian distributors of 17 the Adams Golf product. 18 A. Yes. I do not remember talking to them. 19 Q. Okay. 20 A. Canada wasn't a big market. We were looking 21 at Europe and Asia. 22 Q. When you were talking with folks at 23 Adams Golf, did you ever talk with Chris Beebe? 24 A. Chris Beebe? I have to look at the list of 25 names.</p>	<p>1 Q. I'm just trying to get an idea -- 2 A. Who's who. If I saw their face, maybe I 3 could remember. 4 Q. I could pretty much guarantee you, I don't 5 think I have photos. Maybe some of Barney, but 6 that's, I think, about it. 7 I guess let me segue a little bit since we're 8 on the topic of the team and the staff. 9 A. Okay. 10 Q. In Exhibit 53, there is a list of the -- 11 MR. CHEPIGA: 153? 12 MS. LELAND: 153. 13 Q. -- list of the working group. 14 Can you take a look at that and tell me if 15 that's a correct list of the people in the working 16 group and what the working group entailed? 17 MR. CHEPIGA: Do you want to go through all 18 the pages of that document? Starting where? 19 MS. LELAND: I think that the working group 20 list begins on Page 6 of the document, which is 21 No. 8728. Lists some folks at Adams, then Lehman 22 MR. CHEPIGA: Okay. And what is the 23 question? I'm sorry. 24 BY MS. LELAND: 25 Q. Is this -- to the best of your knowledge,</p>

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1 which would decide -- again, independently -- whether  
2 or not he would support the stock. And he would be  
3 issuing a research report, potentially, on the stock  
4 after the IPO

5 Q. So what were the differences between the  
6 New York and San Francisco analysts' duties with  
7 respect to the Adams IPO, the differences between  
8 Mr. Picchi and Mr. Mehta?

9 A. Oh, significantly different. Bernie Picchi's  
10 job is to educate investors, institutional investors,  
11 and provide an independent look at the company based  
12 on his models, his knowledge of the market.

13 So Mehta -- Sameet Mehta was a financial  
14 analyst, a junior person that did financial analysis  
15 in terms of company comparables and lower-level work  
16 than what Bernie Picchi would do.

17 Q. Lower-level and more internal? Is that what  
18 you're --

19 A. Let's see. Sameet Mehta's job is more as a  
20 support role for the banking team.

21 Q. Okay. That's helpful. Still trying to  
22 figure out how it all works.

23 A. And the banking team is separate from the  
24 equity research team.

25 Q. And what was Brian Lantier's role?

1 marketing?

2 A. I don't recall about whether or not we used  
3 the term "gray marketing." But we would certainly  
4 talk to them -- him about any of our concerns or  
5 anything like that. And so most of our focus was on  
6 the competition, you know, and what the next product  
7 was that was going to be and how the company was doing  
8 in that regard.

9 So that's -- that's what I recall.

10 And then he had a separate meeting with the  
11 company, which bankers could attend, and then he would  
12 explore whatever issues he felt were very relevant  
13 And so I'm sure it was all discussed in the terms of  
14 what's important right now to the company in making an  
15 assessment of what the most relevant risk factors  
16 were.

17 Q. Okay. Just to be clear, when I use the term  
18 "gray marketing," I know it's referred to by a variety  
19 of terms, and "gray marketing" seems to be what we've  
20 just started using in this case.

21 A. Okay.

22 Q. I think "parallel importing," I believe, is a  
23 similar term, referring to any unauthorized  
24 distribution, distribution to unauthorized retailers.

25 A. Okay.

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1 A. He was kind of like the -- the support for  
2 Bernie Picchi. An equity research analyst in  
3 training.

4 Q. Okay.

5 A. He would eventually hope to have his own  
6 accounts under coverage.

7 Q. And how often did you communicate with either  
8 Mr. Picchi or Mr. Lantier in the IPO process?

9 A. Well, we were -- you know, we would --  
10 I don't recall if we had -- we had to -- you know,  
11 because they are a separate type of group and there is  
12 a wall between us, we had to introduce the company to  
13 them and they had to do their own analysis and their  
14 own independent study. And we could give them what we  
15 had, but they made their own judgments on it.

16 But we would talk to them whenever they asked  
17 us questions. And I don't remember if at the time,  
18 if we had a go-between. We may have, in the form of  
19 Brad and Mark. I don't remember.

20 Q. So even though they are on the working group,  
21 there was something of a wall between the two groups,  
22 with separate and defined roles?

23 A. (Nods head up and down.)

24 Q. Do you recall whether there was ever a  
25 discussion with Mr. Picchi or Mr. Lantier about gray

1 Q. And, going back, do you specifically recall  
2 having any discussions of gray marketing, under any  
3 term, with Mr. Picchi or Mr. Lantier before the Adams  
4 IPO?

5 A. Again, I'm getting very literal. I know we  
6 discussed it in general. I can't tell you exactly  
7 when or how, but I know we discussed any of the issues  
8 that we would have.

9 So, again, I would go back to the  
10 competition, what it would look like, where the clubs  
11 are going, dealers. But the gray marketing was --  
12 that wasn't a big issue at all. It happens, you know,  
13 that clubs get to be -- you can get a club somewhere,  
14 anywhere, no matter what the company does. They could  
15 have the strictest contractual things and somebody  
16 somewhere can get a club.

17 And so it wasn't -- that wasn't an issue.  
18 We were focused on, Are there dealers? Are they  
19 getting what they need from the company? Are they  
20 happy? Are they upset with the company? Is there  
21 anything that they don't like about what the company  
22 is doing? And that was our primary focus, because if  
23 those dealers no longer wanted to carry Adams Golf,  
24 you know, then we would be -- there might be -- that  
25 could be an issue.

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<p>1 Q. Oh, sure</p> <p>2 A. So we definitely focused on what -- did the</p> <p>3 third-party checks. We asked them, we probed them</p> <p>4 very much. So is there anything at all?</p> <p>5 And the club was being pulled. Everybody</p> <p>6 wanted that club. It was more an issue, could Barney</p> <p>7 get the clubs to the dealers, you know, in the</p> <p>8 quantity that they wanted, you know, and in a timely</p> <p>9 manner? And then also, how much Barney was going to</p> <p>10 keep providing the pull, you know, with the brand</p> <p>11 awareness and brand recognition out there. Because</p> <p>12 that all helped the dealers when the name was out</p> <p>13 there, everybody knew it. It sold the club for them.</p> <p>14 So that's the kind of thing that we focused</p> <p>15 on</p> <p>16 Q. Okay. So is it fair to say you don't recall</p> <p>17 having any specific conversations concerning gray</p> <p>18 market with Mr. Picchi or Mr. Lantier?</p> <p>19 MR. CHEPIGA: Are you referring -- using the</p> <p>20 word "gray marketing," conversations in which they</p> <p>21 used the word, the phrase "gray marketing"?</p> <p>22 MS. LELAND: Or any -- any sale of products</p> <p>23 or finding products at an unauthorized retailer.</p> <p>24 THE WITNESS: Okay. Now, that kind of thing,</p> <p>25 we would have had. I guess I just -- I have a problem</p>	<p>1 isolated incident -- I recall something to that</p> <p>2 effect. My interpretation was it was an isolated</p> <p>3 incident and that that person or distributor, whoever</p> <p>4 it was that got those clubs there, they were going to</p> <p>5 pursue that and put an end to that.</p> <p>6 Q. Do you recall who you spoke with at</p> <p>7 Adams Golf about this issue?</p> <p>8 A. It would have been Barney or Mark or --</p> <p>9 I don't recall exactly who, but it was a group of many</p> <p>10 people that were -- that would have been present.</p> <p>11 Q. Okay.</p> <p>12 MR. CHEPIGA: You were asking her what she</p> <p>13 did to determine it was material. Can we let her</p> <p>14 finish her answer?</p> <p>15 MS. LELAND: Sure</p> <p>16 THE WITNESS: Then we -- we interviewed third</p> <p>17 parties, or their customers and retailers, to look --</p> <p>18 to look at that</p> <p>19 Also, you know, I do a lot of anecdotal-type</p> <p>20 thing. Costco was a client of mine, so I was -- I</p> <p>21 offered the company, like, "Well, do you want me to</p> <p>22 talk to Costco about this? I don't know if Costco</p> <p>23 will tell me, but I can ask them about this." And it</p> <p>24 wasn't a big issue. They said, "No, we'll take care</p> <p>25 of it," through their -- their process, which was the</p>
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<p>1 with the "gray marketing" concept.</p> <p>2 BY MS. LELAND:</p> <p>3 Q. And we can refer to it as whatever you would</p> <p>4 like to refer to it. But in our complaint and</p> <p>5 throughout this litigation, "gray marketing" has</p> <p>6 referred to the unauthorized sale.</p> <p>7 A. So, unauthorized. Yes, we would have</p> <p>8 discussed that. And it wasn't -- it wasn't a big</p> <p>9 issue. It just -- yes, we knew it was there, we</p> <p>10 discussed it, and it wasn't material, whatever, a</p> <p>11 relevant issue that was important to this.</p> <p>12 Q. How were you able to determine whether it was</p> <p>13 relevant or not?</p> <p>14 A. Whether --</p> <p>15 Q. Whether the gray marketing --</p> <p>16 MR. CHEPIGA: One at a time.</p> <p>17 THE WITNESS: Okay.</p> <p>18 MS. LELAND: Sorry</p> <p>19 Q. How did you determine whether the gray</p> <p>20 marketing was material or not?</p> <p>21 A. We of course first spoke to the company,</p> <p>22 talked about the distribution channels. The issue</p> <p>23 of -- the discussion of Costco came up because of</p> <p>24 discount warehouses. And we asked, was it much of a</p> <p>25 problem? They said no, there was -- it was an</p>	<p>1 potential litigation of the filing in Texas. And so</p> <p>2 we said, okay, we don't have to do that.</p> <p>3 It wasn't a big issue. Plus, there was</p> <p>4 discussion, would people actually buy the clubs at</p> <p>5 Costco? Because if you -- when I was checking with</p> <p>6 people, they don't buy clubs at Costco, not at that</p> <p>7 price point. It was a pretty expensive club to buy.</p> <p>8 If it's suspect, whether it's a second-quality one or</p> <p>9 rip-off in general.</p> <p>10 Most people, they won't buy basketballs</p> <p>11 because they think they bounce funny. They won't buy</p> <p>12 golf balls because they think they are second-quality</p> <p>13 That's the impression in general of some of the sports</p> <p>14 equipment products. And when this is such -- it's a</p> <p>15 high-ticket item, and someone who's a golfer looking</p> <p>16 to improve their golf swing and invest in this,</p> <p>17 they're going to make sure that is the product that</p> <p>18 has the little technology aspects to it that they</p> <p>19 believe the product has.</p> <p>20 So -- so it wasn't -- it wasn't going to be</p> <p>21 an issue. So many people said, "What? I wouldn't buy</p> <p>22 it there. How do I know that's it, that that's the</p> <p>23 right product?"</p> <p>24 So I wasn't -- you know, if it was showing up</p> <p>25 there, I didn't think it was -- I thought it would</p>

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<p>1 stop, you know, they would put an end to that.</p> <p>2 I didn't think there was going to be an issue. It</p> <p>3 wasn't a great number of clubs that were showing up</p> <p>4 there. This was a specialty club.</p> <p>5 BY MS. LELAND:</p> <p>6 Q How did you learn how -- the number of clubs</p> <p>7 that were in Costco?</p> <p>8 A. I don't recall knowing the exact number, but</p> <p>9 I remember asking about, you know, where it was. And</p> <p>10 I just recall it being an isolated incident.</p> <p>11 Q. Did anybody from Lehman actually go to a</p> <p>12 Costco and see the clubs in the store?</p> <p>13 A. We did not see them. I looked. I was,</p> <p>14 "Where are they? Okay, it must be some store."</p> <p>15 I actually thought maybe it was up in Seattle or</p> <p>16 something. Because I didn't see them, so...</p> <p>17 Q. So you actually went out to Costco and looked</p> <p>18 to see?</p> <p>19 A. Oh, yeah.</p> <p>20 Q. Which Costco did you go to?</p> <p>21 A. Let's see. I would have gone to the</p> <p>22 San Francisco one. I -- whenever I was in</p> <p>23 Los Angeles, I would find -- because Costco and we</p> <p>24 were -- Lehman Brothers worked on the IPO of Costco --</p> <p>25 don't quote me; I might be wrong. But, yes, I'm a</p>	<p>1 the IPO process?</p> <p>2 A. Well, they were our co-managers, so they</p> <p>3 needed to be present at the drafting sessions and at</p> <p>4 the due diligence sessions. And we would include them</p> <p>5 in -- they were part of the team. We all worked</p> <p>6 together.</p> <p>7 Q. Was there an exchange of the research that</p> <p>8 was done by the individual underwriters?</p> <p>9 A. I --</p> <p>10 MR. CHEPIGA: Object to the form of the</p> <p>11 question.</p> <p>12 If you understand it, go ahead. I don't.</p> <p>13 MS. LELAND: Let me try to rephrase it.</p> <p>14 Q. You did research at Lehman?</p> <p>15 A. Okay. Equity research? Because there's</p> <p>16 equity research, which is the Bernie Picchi,</p> <p>17 Joe Teklits, that kind of thing. And that's</p> <p>18 proprietary; they write their own and they are</p> <p>19 competing with each other. So -- you know, so we have</p> <p>20 the same source in terms of the companies meetings for</p> <p>21 equity research, but they write their own reports.</p> <p>22 Q. Okay.</p> <p>23 A. They do so independently. They come up with</p> <p>24 their own models, their own everything, if you're</p> <p>25 talking about equity research.</p>
Page 51	Page 53
<p>1 card-carrying member of Costco. And my husband will</p> <p>2 not buy any sports equipment there.</p> <p>3 Q. Let me finish going through this list and</p> <p>4 then maybe, depending on how you feel, it would be a</p> <p>5 good time to take a break.</p> <p>6 A. Okay.</p> <p>7 Q. What was the role of John Weiss in the IPO?</p> <p>8 I'm sorry, I skipped ahead. Page 9. He</p> <p>9 appears to be with NationsBank Montgomery.</p> <p>10 A. Oh. He -- I don't recall, but from his title</p> <p>11 here, he would have been like the Bernie Picchi of</p> <p>12 NationsBank.</p> <p>13 Q. And what was the role of Joe Teklits, if I'm</p> <p>14 pronouncing that correctly?</p> <p>15 A. He's an equity research analyst from</p> <p>16 Ferris Baker. The same as Bernie Picchi, similar role</p> <p>17 as Bernie Picchi.</p> <p>18 Q. Okay. And Dave Turner?</p> <p>19 A. I don't know that name. I don't recall that</p> <p>20 name, I should say.</p> <p>21 Q. Okay. He was also at Ferris Baker, I</p> <p>22 believe, and may have been later in the period.</p> <p>23 A. Okay.</p> <p>24 Q. What kind of communications did Lehman and</p> <p>25 the other writers -- other underwriters have during</p>	<p>1 Q. And as far as the type of research you were</p> <p>2 doing, is there a term for that?</p> <p>3 A. Well, if you're talking about the due</p> <p>4 diligence.</p> <p>5 MR. CHEPIGA: Due diligence?</p> <p>6 MS. LELAND: Yes, just the due diligence in</p> <p>7 general.</p> <p>8 THE WITNESS: Yes, we all do that together.</p> <p>9 BY MS. LELAND:</p> <p>10 Q. And the information was exchanged between --</p> <p>11 A. Mm-hmm. Mm-hmm.</p> <p>12 Q. Okay.</p> <p>13 A. Oh, I needed to say "yes."</p> <p>14 MR. CHEPIGA: Just making sure she got the</p> <p>15 "yes."</p> <p>16 Do you want to take a break? We've been</p> <p>17 going over an hour.</p> <p>18 MS. LELAND: Sure.</p> <p>19 (Recess taken.)</p> <p>20 (Exhibit No. 154 marked for identification.)</p> <p>21 BY MS. LELAND:</p> <p>22 Q. Marked as Exhibit 154 is a document Bates UND</p> <p>23 00134 through -43. Can you take a look at the</p> <p>24 document and then let me know if you recognize it</p> <p>25 (Witness examines document.)</p>

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<p style="text-align: right;">Page 66</p> <p>1 look at the third.  2 BY MS. LELAND:  3 Q Exhibit 157?  4 A 157  5 (Witness examines document )  6 So, with Exhibit 157, these items were  7 reviewed, and again, I don't -- I would need more  8 visual aids to help me remember if there was anything  9 specific on these documents  10 Q That's fine. And --  11 A And 158.  12 (Witness examines document )  13 Okay. And the same comment here.  14 Q Okay. Do you recall if there were any other  15 shipments of documents from the attorneys?  16 A I -- I don't recall. I would have to rely  17 on -- we keep pretty thorough records of what we get,  18 so I'm relying on that.  19 Q So is it fair to say that the documents  20 provided by counsel for the due diligence came in  21 these four shipments?  22 A The documents provided by --  23 Q -- by Cooley Godward came in these four  24 shipments.  25 MR. CHEPIGA: She just said she didn't know</p>	<p style="text-align: right;">Page 68</p> <p>1 A. I believe so, but I can't recall  2 definitely  3 Q Okay. And by "Daryl and Mark from the  4 company," is that Daryl Hatfield and Mark Gonsalves?  5 A Yes.  6 Q Do you recall where the meeting was held?  7 A July 9th. No, I do not  8 Q Toward the bottom of Page 284, there is a  9 heading "Litigation front."  10 Do you see that?  11 A Mm-hmm  12 Q It says: "File lawsuit against British  13 distributor to void relationship. They had declined  14 to sign agreement."  15 Do you see that language?  16 A Yes.  17 Q Do you know what that refers to?  18 A I don't recall.  19 Q Okay. Do you recall whether, during this  20 meeting, any other litigation was discussed?  21 A Repeat the question.  22 Q Do you recall -- let me rephrase the  23 question  24 Do you recall whether during this meeting on  25 July 9th, whether the company's litigation with Costco</p>
<p style="text-align: right;">Page 67</p> <p>1 if there were others. Objection.  2 THE WITNESS: Yeah, I don't know. It's  3 whatever you guys have in the files.  4 MS. LELAND: She also said they keep very  5 good records and if it happened, it should be here.  6 MR. CHEPIGA: If you pulled everything that's  7 relevant to show her.  8 (Exhibit No. 159 marked for identification )  9 MS. LELAND: Marked as Exhibit 159 is the  10 document Bates-numbered UND 00283 to -84.  11 THE WITNESS: Okay  12 BY MS. LELAND:  13 Q Do you recognize this document?  14 A No.  15 Q Do you recognize the handwriting in this  16 document?  17 A No. Curious, whose is it? Sorry.  18 Q The document purports to reflect a meeting  19 dated July 9th of 1998 with Daryl and Mark from the  20 company. I'm looking at the top of Page 284. It  21 says: "Bring down due diligence."  22 Do you recall any such meeting occurring?  23 A "Bring down due diligence." Yes.  24 Q Was this some -- did you participate in this  25 meeting?</p>	<p style="text-align: right;">Page 69</p> <p>1 was discussed?  2 A. I don't recall specifically.  3 (Exhibit No. 160 marked for identification )  4 BY MS. LELAND:  5 Q Marked as Exhibit 160 is Bates UND 06019  6 through -22.  7 Do you recognize this document?  8 A Yes.  9 Q What is this document?  10 A. It is a summary -- very brief summary of the  11 due diligence that we performed for the Adams Golf  12 IPO.  13 Q By "we," do you mean the working team?  14 A Yes.  15 Q The second item on Page 6020, second heading,  16 is "Customer Calls - summaries circulated to  17 underwriters by caller."  18 Do you recall customer calls?  19 A Yes.  20 Q Will you explain to me how that worked?  21 A. We would call the Adams Golf contact at the  22 customer location and speak to them about their  23 relationships with Adams Golf. And we split up the  24 calls amongst the underwriters.  25 Q Which underwriters were the calls divided</p>

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<p style="text-align: right;">Page 70</p> <p>1 among?</p> <p>2 A. Well, by -- amongst ourselves and</p> <p>3 Ferris Baker.</p> <p>4 Q. Okay. And do you know who provided the names</p> <p>5 of the customers?</p> <p>6 A. The names of the -- well, we asked for a list</p> <p>7 of the top customers from the company. So they</p> <p>8 provided the list from which to select the -- the</p> <p>9 customers, and we randomly selected from the list of</p> <p>10 customers, focusing on the largest.</p> <p>11 Q. To your knowledge, during these customer</p> <p>12 calls, was the issue of gray marketing ever discussed?</p> <p>13 A. Was the issue of gray marketing ever</p> <p>14 discussed? It was discussed in the context of the</p> <p>15 customer's satisfaction with their overall</p> <p>16 relationship with Adams Golf. So, to clarify, we</p> <p>17 would talk about if they had any problems or issues</p> <p>18 with Adams Golf that we should be made aware of.</p> <p>19 And so we gave them very open-ended,</p> <p>20 broad questions so that they could tell us anything</p> <p>21 and everything and gave them pretty much every</p> <p>22 opportunity to do that. And so, in that way, it was</p> <p>23 discussed.</p> <p>24 Q. Okay. Do you have any specific recollection</p> <p>25 of a customer call during which gray marketing was</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Not at all.</p> <p>2 (Exhibit No. 161 marked for identification.)</p> <p>3 BY MS. LELAND:</p> <p>4 Q. Exhibit 161 is Bates UND 00287 through -315.</p> <p>5 Go ahead and take a look at this and let me know if</p> <p>6 you recognize it.</p> <p>7 A. Yes. This is a compilation of customer due</p> <p>8 diligence questionnaires, answers from -- that we</p> <p>9 received from the company -- from the customers,</p> <p>10 pardon me -- that we receive from the customers when</p> <p>11 performing due diligence.</p> <p>12 Q. Great.</p> <p>13 Were you involved in preparing the</p> <p>14 questionnaire?</p> <p>15 A. Yes.</p> <p>16 Q. Do you recall who else was involved in</p> <p>17 preparing the questionnaire?</p> <p>18 A. Generally speaking, the team would be</p> <p>19 involved.</p> <p>20 Q. And do these questionnaires correspond to the</p> <p>21 customer calls listed on the prior exhibit, No. 160?</p> <p>22 MR. CHEPIGA: Do you actually want her to go</p> <p>23 back and compare them?</p> <p>24 MS. LELAND: Please.</p> <p>25 MR. CHEPIGA: It's a matter of whatever is in</p>
<p style="text-align: right;">Page 71</p> <p>1 discussed?</p> <p>2 A. In terms of, like, if I go through each one</p> <p>3 of these -- I would say -- well, with each of the</p> <p>4 accounts that Lehman Brothers handled directly, I know</p> <p>5 I was involved on those calls. And it would -- we</p> <p>6 would discuss any types of issues, again, they would</p> <p>7 have with Adams, with any -- you know, what they saw</p> <p>8 in competition.</p> <p>9 So again, your definition -- your term of</p> <p>10 "gray marketing," from the broadest sense, using that</p> <p>11 definition -- in the broadest sense, sure, it was</p> <p>12 discussed with each of these clients.</p> <p>13 Q. Were these --</p> <p>14 A. With each of these customers. Excuse me.</p> <p>15 Because we're talking about -- "You get your supply</p> <p>16 from Adams Golf." You know, "Are you" -- "what are</p> <p>17 they doing with you?" "How happy are you with</p> <p>18 Adams Golf?" What are they doing from their</p> <p>19 perspective for protecting the brand and getting the</p> <p>20 product to them and servicing them?</p> <p>21 So that would cover a broad range of issues,</p> <p>22 including the gray marketing issue. If they had a</p> <p>23 problem, they would have said something to us.</p> <p>24 Q. And do you recall anyone expressing concern</p> <p>25 over the sale of clubs in Costco during these calls?</p>	<p style="text-align: right;">Page 73</p> <p>1 the document is in the document.</p> <p>2 MS. LELAND: Let me rephrase that.</p> <p>3 Q. Did you send questionnaires to everyone</p> <p>4 listed under "Customer calls" in Exhibit 160?</p> <p>5 A. I would have to check, but we -- yes, we did.</p> <p>6 I would have to check to see if they are actually in</p> <p>7 this packet.</p> <p>8 MR. CHEPIGA: Excuse me. Did you send the</p> <p>9 questionnaires?</p> <p>10 THE WITNESS: Oh, I'm sorry.</p> <p>11 MR. CHEPIGA: Listen to the question.</p> <p>12 THE WITNESS: I need to listen. Did we</p> <p>13 send --</p> <p>14 BY MS. LELAND:</p> <p>15 Q. Did you send or did you provide the</p> <p>16 questionnaires to the customers listed under "Customer</p> <p>17 calls" in Exhibit 160?</p> <p>18 A. I don't recall. We asked the questions of</p> <p>19 the customers. Whether or not we sent them a copy of</p> <p>20 this questionnaire in writing, I don't recall.</p> <p>21 Q. Okay. Was this -- just trying to make sure</p> <p>22 I've got it right.</p> <p>23 This is the list of questions that you asked</p> <p>24 the customers?</p> <p>25 A. Yes.</p>

19 (Pages 70 to 73)

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<p>1 Q. Okay. So it very well may have been filled 2 out by someone on the working team as opposed to the 3 customer filling it out and sending it back to you? 4 A. Yes. 5 Q. Okay. Thank you. 6 Are you aware of any customers on the list in 7 Exhibit 160 -- 8 A. 160? 9 Q. 160, this one. 10 A. Okay. 11 Q. -- anyone else who you may have asked these 12 questions to? 13 A. Am I aware of anyone else? 14 Q. Let me rephrase it. 15 Do you recall running through the customer 16 due diligence questionnaire with any Adams Golf 17 customers other than those listed on Page 6020 of 18 Exhibit 160? 19 A. I -- all of us spoke to many people in the 20 golf industry during this process. These are our 21 official results for the record. But we also -- I 22 know I did personally, spoke to others when I walked 23 into a golf course, that type of thing. Just 24 checking, checking, looking for market, doing market 25 research, and never incurred any problems.</p>	<p>1 February 28th," listed as No. 3 is "WDC Mackenzie 2 Distributing Ltd., Canada"; correct? 3 A. Mm-hmm. 4 Q. Did you ever speak with anyone at 5 WDC Mackenzie as part of the due diligence? 6 MR. CHEPIGA: Objection. Asked and answered 7 Go ahead. 8 THE WITNESS: Not that I recall. I would 9 have to look back at this list, but I don't think they 10 were on our list of -- of our people -- 11 MS. LELAND: Okay. 12 THE WITNESS: -- of the people that we talked 13 to. 14 (Witness examines document ) 15 Correct. No, we did not speak to them. 16 (Exhibit No. 163 marked for identification ) 17 BY MS. LELAND: 18 Q. Marked as Exhibit 163 is the document 19 Bates-numbered Adams 001494. 20 Do you recognize this document? 21 A. It's a press release from Adams, yes. 22 Q. Do you recall having seen it before? 23 A. I believe so. 24 Q. When? 25 A. I don't recall exactly when.</p>
Page 75	Page 77
<p>1 Q. And the list of customer calls on 2 Exhibit 160, those were given to you by Adams Golf; 3 correct? 4 A. The list -- no. We -- 5 MR. CHEPIGA: Objection. 6 THE WITNESS: Well, the list of customer 7 calls? 8 BY MS. LELAND: 9 Q. How did you decide which customers to call? 10 A. We -- 11 MR. CHEPIGA: Objection. Asked and answered. 12 Go ahead. 13 THE WITNESS: We asked for a list of the 14 company's top customers. You know, "Give us a list of 15 your customers." They have over 7,000 customers, 16 but -- "Give us a list of your customers," and then we 17 randomly chose from that list who we wanted to call. 18 MS. LELAND: Okay 19 (Exhibit No. 162 marked for identification ) 20 BY MS. LELAND: 21 Q. Marked as Exhibit 162 is the document 22 Bates-numbered UND 00387 to -88 23 Is this a list that you were given? 24 A. I believe so. 25 Q. In the second column, under "1998 through</p>	<p>1 Q. Do you recall whether you saw it prior to the 2 IPO? 3 A. Yes. 4 Q. You mentioned earlier that you were aware 5 that Adams Golf was commencing litigation against 6 Costco. Is that correct? 7 A. "Commencing litigation," I'm not sure if 8 that's the correct term, again, just because I don't 9 have the legal background. But there was something 10 that was going to be done in a legal manner. That's 11 what I knew. 12 Q. By Adams against Costco? 13 A. Yes. 14 Q. Did you discuss the litigation with anyone at 15 Adams prior to them filing the suit? 16 A. I believe it was prior, yes. 17 Q. Who did you discuss this with? 18 A. I don't recall exactly, but it would have -- 19 it was a group of senior management at the company 20 and/or our -- our counsel, underwriters' counsel or 21 their counsel. It was discussed. 22 Q. Did you follow the litigation after it was 23 filed? 24 A. What do you mean by "follow"? 25 Q. Adams Golf filed a bill of discovery against</p>

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<p>1 Costco in June of '98.</p> <p>2 A Okay.</p> <p>3 Q Did you have any discussions with anyone at</p> <p>4 Adams concerning the litigation between June 9th</p> <p>5 of '98 and July 9th of '98?</p> <p>6 A I believe I did</p> <p>7 Q Who did you have discussions with?</p> <p>8 A I don't recall. I can recall conversations</p> <p>9 I don't remember who was actually there, but I recall</p> <p>10 conversations.</p> <p>11 Q And what was said in these conversations?</p> <p>12 A My recollection was discussions to determine</p> <p>13 whether or not this was a significant issue and</p> <p>14 whether or not it was -- it was a significant issue.</p> <p>15 And I remember concluding that it wasn't.</p> <p>16 Q On what basis did you conclude that this was</p> <p>17 not a significant issue?</p> <p>18 A This type of thing happens all the time with</p> <p>19 companies. Costco was not -- it wasn't a big problem.</p> <p>20 There weren't lots of clubs at Costco's; it was an</p> <p>21 isolated incident, and it was protection that is done</p> <p>22 in the normal course of business for -- that</p> <p>23 Adams Golf would do. So other golf clubs</p> <p>24 manufacturers have -- do the same, protecting their</p> <p>25 patent, that type of thing. It's not anything</p>	<p>1 vetted. And so the issue was taken seriously; it</p> <p>2 wasn't, you know, just dismissed. It was -- but it</p> <p>3 was fully discussed and vetted with the company and</p> <p>4 with the underwriters, and we felt it wasn't a</p> <p>5 significant issue. I do recall that.</p> <p>6 I -- I mean, when there is a legal issue,</p> <p>7 I want to know, you know, what's going on? Is it</p> <p>8 something that could impact the company significantly?</p> <p>9 And we pursue that. You know, typically they're</p> <p>10 around patent issues, and this one was not one that</p> <p>11 was significant. There were other -- many other</p> <p>12 factors that were significant, or material.</p> <p>13 Q And those factors being the ones you</p> <p>14 identified previously that appear in those first</p> <p>15 couple of exhibits we talked about?</p> <p>16 A Yes, to talk about competition.</p> <p>17 Q Exactly.</p> <p>18 A What's happening there.</p> <p>19 Q Do you recall how you received a copy of that</p> <p>20 press release?</p> <p>21 A No, I don't. No, I don't. But I do remember</p> <p>22 talking about it and discussing it.</p> <p>23 Q Could you have received it directly from</p> <p>24 Adams Golf?</p> <p>25 MR. CHEPIGA: Object to the form.</p>
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<p>1 different that -- so -- it's not anything different.</p> <p>2 Q Do you know how the suit turned out?</p> <p>3 A Not specifically. I would have to be</p> <p>4 prompted. I believe it was a nonissue.</p> <p>5 Q Would you be surprised to hear the suit was</p> <p>6 dismissed?</p> <p>7 MR. CHEPIGA: Object to the form of the</p> <p>8 question</p> <p>9 THE WITNESS: What does that mean?</p> <p>10 MR. CHEPIGA: It means answer the question,</p> <p>11 but I think it's a defective question.</p> <p>12 THE WITNESS: Would I be surprised to find</p> <p>13 out that --</p> <p>14 MS. LELAND: -- the suit was dismissed.</p> <p>15 THE WITNESS: I don't know.</p> <p>16 BY MS. LELAND:</p> <p>17 Q Have you ever heard that the suit was</p> <p>18 dismissed?</p> <p>19 A I don't recall. I just remember it not being</p> <p>20 a significant issue.</p> <p>21 Q Were people at Adams taking the position that</p> <p>22 this was not a significant issue?</p> <p>23 A We discussed it thoroughly. We -- so it</p> <p>24 was -- it was something that was discussed. Anytime I</p> <p>25 hear "legal action," it has to be discussed and</p>	<p>1 THE WITNESS: Could I have?</p> <p>2 MR. CHEPIGA: That's what I'm objecting to.</p> <p>3 BY MS. LELAND:</p> <p>4 Q Just trying to find out if it came through</p> <p>5 your in-house research or if Barney sent it to you</p> <p>6 Do you recall seeing a draft of the press</p> <p>7 release?</p> <p>8 A I don't know if I saw it. I don't know if I</p> <p>9 saw a draft. But Barney contacted us frequently. You</p> <p>10 know, he was discussing -- he was one of the most --</p> <p>11 he talked to us a lot. We had lots of calls from</p> <p>12 Barney. And so I know we discussed a lot of these</p> <p>13 issues.</p> <p>14 Q What, to your knowledge, was the Adams-Costco</p> <p>15 litigation intended to accomplish?</p> <p>16 A What was it intended to accomplish? Repeat</p> <p>17 that question again.</p> <p>18 Q What was the litigation intended to</p> <p>19 accomplish?</p> <p>20 A To stop the distribution of clubs wherever</p> <p>21 they might be at Costco.</p> <p>22 Q In going through the due diligence process,</p> <p>23 who had the final say on whether or not the presence</p> <p>24 of clubs in Costco was material?</p> <p>25 A Who had the final say?</p>

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<p>1 Q. (Nods head up and down.)</p> <p>2 A. It would be a collaborative effort amongst</p> <p>3 the underwriters and the company, and we would all</p> <p>4 give our opinion on that. And then I'm unsure as to</p> <p>5 who would say it, but if we wanted -- if we felt that</p> <p>6 it was material, we would put it in there</p> <p>7 (Exhibit No. 164 marked for identification.)</p> <p>8 MS. LELAND: Marked as Exhibit 164 is</p> <p>9 Document No. UND 02708.</p> <p>10 THE WITNESS: Okay.</p> <p>11 BY MS. LELAND:</p> <p>12 Q. Have you seen this document before?</p> <p>13 A. Yes.</p> <p>14 Q. What is this document?</p> <p>15 A. A summary of the SEC's comments on the</p> <p>16 prospectus.</p> <p>17 Q. Who is Joe Hoffman?</p> <p>18 A. I have to look at the working group list.</p> <p>19 I believe an attorney.</p> <p>20 Q. Okay. Do you recall the approximate date</p> <p>21 when you saw this memo?</p> <p>22 A. No, I don't recall the approximate date, but</p> <p>23 as a matter of practice, we see the SEC's comments.</p> <p>24 Q. Okay. So, as a matter of practice, you would</p> <p>25 have seen it around the time the memo was issued;</p>	<p>1 management and counsel.</p> <p>2 Q. Okay. By June 25, 1998, the clubs were in</p> <p>3 Costco; correct?</p> <p>4 A. Well, in limited -- what we knew was a</p> <p>5 limited basis.</p> <p>6 Q. And Adams had filed their suit against</p> <p>7 Costco; correct?</p> <p>8 A. Correct, based on -- yes, okay. June 9th,</p> <p>9 yes.</p> <p>10 Q. And nevertheless, everyone decided that it</p> <p>11 wasn't a material issue?</p> <p>12 A. That's right, because Costco -- it was --</p> <p>13 you could file suit against every person that you</p> <p>14 found had a club. You know, people get them in all</p> <p>15 different manners and different ways. And, you know,</p> <p>16 this source was -- it was, you know, going to be shut</p> <p>17 down. It wasn't a significant one, a small number of</p> <p>18 clubs, isolated incident.</p> <p>19 And it just wasn't a -- it was not a relevant</p> <p>20 factor to bring it out and highlight it as a separate</p> <p>21 risk factor. This was all covered under the risk</p> <p>22 factors that are in the prospectus, those general</p> <p>23 terms, competition and what happens, that kind of</p> <p>24 thing.</p> <p>25 Q. Once you learned that the litigation had been</p>
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<p>1 is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Take a look, and if you could read on</p> <p>4 the record Item No. 4</p> <p>5 A. Okay.</p> <p>6 (Witness examines document.)</p> <p>7 Okay.</p> <p>8 Q. "The staff wanted the company to consider</p> <p>9 whether disclosure of the Costco matter was</p> <p>10 necessary."</p> <p>11 A. Okay.</p> <p>12 Q. What happened when you saw this memo?</p> <p>13 A. When I saw that statement, "The staff wanted</p> <p>14 the company to consider whether disclosure of the</p> <p>15 Costco matter was necessary?" Well, your question is,</p> <p>16 like -- I know -- I don't know what happened when I</p> <p>17 saw it, but I know what happened with considering</p> <p>18 whether disclosure of the Costco matter was necessary.</p> <p>19 Q. What happened in the consideration?</p> <p>20 A. We discussed whether it was necessary and</p> <p>21 concluded that it was not a material and relevant</p> <p>22 factor.</p> <p>23 Q. Who all was involved in the discussions?</p> <p>24 A. I can't recall specific names, but I can</p> <p>25 recall it was underwriters and -- and senior</p>	<p>1 filed against Costco, did you request any litigation</p> <p>2 updates from Adams Golf?</p> <p>3 A. As a matter of practice, we would follow up,</p> <p>4 potentially, what was -- anything that was happening</p> <p>5 at the company that had a legal or matter -- you know,</p> <p>6 legal matter, we would follow up on.</p> <p>7 Q. How would you follow up? In writing?</p> <p>8 A. We may have, but typically it was in</p> <p>9 conversations with the company --</p> <p>10 Q. Okay.</p> <p>11 A. -- and with their counsel.</p> <p>12 Q. Do you recall any of these conversations?</p> <p>13 A. Generally, yes.</p> <p>14 Q. Can you describe them for me?</p> <p>15 MR. CHEPIGA: Hold on a second.</p> <p>16 THE WITNESS: Okay.</p> <p>17 MR. CHEPIGA: Are we getting into any</p> <p>18 privileged area for Adams Golf?</p> <p>19 MS. MORIATY: Yes, we probably are. We're</p> <p>20 describing conversations between counsel and the</p> <p>21 company. If we're describing conversations among the</p> <p>22 group, however, we're okay.</p> <p>23 Which are we describing?</p> <p>24 MS. LELAND: Well, I wouldn't think that</p> <p>25 underwriters --</p>

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<p>1 MS. MORIATY: If we're describing things that 2 you heard about as part of a drafting process, then 3 we're okay. 4 MR. CHEPIGA: But she could have talked about 5 her own counsel 6 THE WITNESS: I don't know. I don't recall 7 MS. MORIATY: If -- you shouldn't know things 8 that are just happening with their own counsel, so to 9 the extent that you recall specifically or it was 10 within the entire group and part of the drafting 11 process, it's not privileged. But if it's something 12 that Adams is discussing only with their own counsel 13 and you heard hints and don't know the details of, 14 don't talk about that. 15 THE WITNESS: I can't clarify. I don't know, 16 you know, where. 17 BY MS. LELAND: 18 Q. Let me try to go through it step by step, 19 because the last thing I want you to do is disclose 20 privileged information 21 Do you recall having any conversations within 22 the working group as to the status and progress of the 23 Adams-Costco litigation? 24 A. Again, I'm trying to figure out who was there 25 and when and that kind of thing.</p>	<p>1 big issue. It was an isolated incident. So, you 2 know, there weren't huge, long -- there were long 3 discussions that I can tell you in detail about other 4 things, but in this one, it was not material by any 5 means. 6 Q. Did anyone at Adams attempt to assure you 7 that this was not a big deal? 8 A. Did anyone attempt to assure me? 9 MR. CHEPIGA: Object to the form. 10 THE WITNESS: Okay. 11 MR. CHEPIGA: Go ahead and answer it. 12 MS. LELAND: Let me try to rephrase it. 13 Q. Did anyone at Adams tell you that the 14 presence of clubs in Costco was immaterial? 15 A. I don't know if they would have used those 16 words. I know that we talked about it as a group and 17 came to that conclusion. But no one was forcing that 18 opinion on us, that kind of thing. I wasn't forcing 19 it on anybody else. 20 (Exhibit No. 165 marked for identification ) 21 (Discussion off the record.) 22 (Recess taken ) 23 BY MS. LELAND: 24 Q. Marked as Exhibit 165 is a Document UND 02701 25 through -03.</p>
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<p>1 I would say -- repeat one more time. What 2 did you say? Do I -- I'm sorry. 3 (Record read by the reporter.) 4 THE WITNESS: I -- yes, I recall it being -- 5 talking about it being filed and that it was moving 6 along. And then after that, I'm blurry as to, you 7 know, what exactly was said and when. 8 BY MS. LELAND: 9 Q. Okay. What do you mean by "moving along"? 10 A. That the -- whatever the motion was filed and 11 that there was a response, and that -- and that's -- 12 that's what I remember. 13 Q. Okay. Do you recall having any conversations 14 with anyone at Adams concerning the progress of the 15 Adams-Costco litigation? 16 A. Do I recall having any conversations with 17 anyone at Adams? Yes, I would have talked to -- well, 18 yes, again in general. 19 Q. Can you describe, to the best of your 20 recollection, what was said in these discussions? 21 A. I apologize, it just -- it was discussed, and 22 I don't remember exactly because it wasn't a -- 23 it wasn't a big issue. You know, it was there 24 I didn't think it was going to turn into a big issue, 25 didn't have any indication it was going to turn into a</p>	<p>1 Do you recognize this document? 2 A. By looking at it, it's a letter to the SEC. 3 Q. Do you remember seeing this document 4 previously? 5 A. It's -- well, in this format? Just like 6 this? I guess this is an electronic version of a 7 transmission. I -- 8 Q. In any format. 9 A. I mean, just to say we review -- we look at 10 the company's response to the SEC, yeah, we look at 11 them. 12 Q. Did you see a draft of this response before 13 it went to the SEC? 14 A. I don't recall. I know typically we know 15 what the company is going to respond. 16 Q. Were you involved in any discussions on how 17 the company was going to respond? 18 A. On how the company was going to respond? 19 Yes, I knew how -- I knew how the company was going to 20 respond. 21 Q. Did you have any input in the response? 22 A. Did I have any input? Did I have any input? 23 Did I have any input? 24 Well, I was certainly not -- no one told me I 25 couldn't say anything. I could say something; whether</p>

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## OLGA A. PULIDO-CROWE

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<p>1 "Its ability to deliver high-margin, quality 2 product to golf retailers." Can I get those high 3 margin quality products to the golf retailers? I need 4 to be able to deliver them. 5 Q. So by "margin," you mean the margin that the 6 retailer earns between what they pay Adams for the 7 club and what they sell the club for; is that correct? 8 A. Yes. 9 Q. Okay. 10 A. But more the focus should be on the quality 11 product. 12 (Exhibit No. 174 marked for identification.) 13 BY MS. LELAND: 14 Q. Marked as Exhibit 174 is a document that 15 doesn't have a Bates number. 16 Do you recognize this document? 17 A. It's a new report on Adams Golf earnings 18 release. 19 Q. Do you recall reading the release when it 20 came out? 21 A. Yeah, I remember -- I recall when they issued 22 a press release, I would read it. 23 Q. And just to be clear, the date on this press 24 release is July 22nd of '98, which is after the date 25 of the IPO.</p>	<p>1 Mr. Francis also keeping an eye on the reported 2 performance of Adams Golf? 3 MR. CHEPIGA: Object to the form. 4 THE WITNESS: I don't know. I mean, I would 5 assume so, but -- 6 MR. CHEPIGA: Please don't assume -- 7 THE WITNESS: Don't assume. 8 MR. CHEPIGA: -- unless you know everything 9 he did. 10 THE WITNESS: That's right. I don't know. 11 BY MS. LELAND: 12 Q. Did you ever have any discussions with him 13 about Adams' performance following the IPO? 14 A. Adams' performance or the performance of the 15 stock? 16 Q. Either. 17 A. Well, I distinctly recall performance on the 18 stock, because there were so many factors outside of 19 the market having nothing to do with Adams having an 20 impact on the stock price. Competitors announcements, 21 untimely, false, wrong reports. It was just amazing 22 what was in the press that was incorrect. The Reuters 23 announcement that Adams had lower earnings was 24 unbelievable. That was just incorrect. 25 But that type of incorrect information in the</p>
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<p>1 A. Okay. 2 Q. Did you still follow Adams and read its press 3 releases following the IPO? 4 A. Well, as a course of seeing how the company 5 is doing, yeah. 6 Q. Okay. Do you recall whether you saw a draft 7 of this release before it was issued? 8 A. I don't recall. I don't recall, but Bernie 9 almost checked with us on everything. 10 Q. Even after the IPO? 11 A. To some extent, yes. 12 Q. Following the IPO, did you continue to review 13 Adams sales and income and other similar figures? 14 A. After that, we keep tabs on the company and 15 how they are doing, yes. 16 Q. When you say "we," does that include everyone 17 in the working group? 18 MR. CHEPIGA: Object to the form. 19 BY MS. LELAND: 20 Q. Who do you mean by "we"? 21 A. Well, the banker who covers the client, so 22 that would be me and my team. And the equity research 23 analysts certainly keep tabs on the companies because 24 they publish on the companies. 25 Q. Okay. At this point, following the IPO, was</p>	<p>1 news from an outside source can impact a stock price, 2 and competitors' reports and timings of those releases 3 all impacted Adams' stock price. 4 So I definitely had discussions with Stu 5 about that. It was bad luck for the company that that 6 kind of stuff was happening in the market. 7 Q. Did you have any conversations with 8 Mr. Francis following the IPO concerning that gray 9 market/Costco situation at Adams? 10 A. No. That wasn't an issue. More important 11 were the competitors' products and -- you know, it was 12 bad news on Callaway. Their earnings were declining 13 and so their stock price started declining, and 14 unfortunately that impacted Adams. And it had nothing 15 to do with Adams' performance, but yet, since the 16 market views the whole golf market as one, anything 17 that impacted Cobra or Callaway, or Callaway in 18 particular, was impacting Adams. Even though it 19 shouldn't have, it did. 20 (Exhibit No. 175 marked for identification.) 21 BY MS. LELAND: 22 Q. Exhibit 175 is Bates-numbered Adams 036839 23 through -41. 24 Have you seen this memo before? 25 A. I don't think so. September 28, 1998, to the</p>

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## RAINWATER

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED  
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ  
\_\_\_\_\_ X

ORAL DEPOSITION OF DALLAS RAINWATER

Thursday, August 17, 2006

The oral deposition of DALLAS RAINWATER was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 9:20 a.m. to 11:57 a.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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<p>09:32:12 1 that time</p> <p>09:32:15 2 Q So in other words, if, say, 300 clubs</p> <p>09:32:20 3 were returned in December -- that's just a</p> <p>09:32:28 4 hypothetical number -- then you would say that for</p> <p>09:32:30 5 the rest of the year you would reserve for 300</p> <p>09:32:35 6 clubs to be returned each month, for the rest of</p> <p>09:32:51 7 the year, for next year?</p> <p>09:33:05 8 A It was somewhat complicated, so we</p> <p>09:33:11 9 also had to look at those 300 clubs in relation to</p> <p>09:33:20 10 sales.</p> <p>09:33:20 11 Q And they could have been sold anytime</p> <p>09:33:24 12 in 1997, presumably?</p> <p>09:33:26 13 A Well, as I recall, there was a 90-day</p> <p>09:33:33 14 policy in place.</p> <p>09:33:34 15 Q Was that always adhered to?</p> <p>09:33:38 16 A I really can't testify to that. I</p> <p>09:33:44 17 don't remember.</p> <p>09:33:45 18 Q Okay. How did you have to gear it to</p> <p>09:33:57 19 sales?</p> <p>09:33:57 20 A We all felt that the reserves should</p> <p>09:34:01 21 be stated as a percent of sales.</p> <p>09:34:06 22 Q And how did you arrive at</p> <p>09:34:10 23 the percent?</p> <p>09:34:11 24 A We would look at our current actual</p>	<p>09:41:21 1 what sales do you base them on to get</p> <p>09:41:27 2 your percent?</p> <p>09:41:27 3 A Right. And if we -- if we look at</p> <p>09:41:31 4 these work papers, there is a separate section for</p> <p>09:41:37 5 direct response, a separate section for</p> <p>09:41:40 6 commercial.</p> <p>09:41:43 7 Q Okay.</p> <p>09:41:43 8 A The sales numbers there, for example</p> <p>09:41:47 9 on Exhibit 363, based on actual returns, we would</p> <p>09:41:55 10 have said that our expected returns would be the</p> <p>09:42:00 11 167, the 173, and the 157</p> <p>09:42:05 12 Q Where is that?</p> <p>09:42:06 13 MS. REED: He's looking at</p> <p>09:42:07 14 Exhibit 363.</p> <p>09:42:08 15 MS. FOX: Oh, sorry</p> <p>09:42:10 16 Q (By Ms. Fox) So in other words,</p> <p>09:42:12 17 the -- in April the sales were 1,395?</p> <p>09:42:18 18 A Yes.</p> <p>09:42:18 19 Q And the returns were 167.4. You only</p> <p>09:42:22 20 got the club -- the head of the club back?</p> <p>09:42:25 21 A We -- that would be what we would</p> <p>09:42:28 22 expect the returns to be on those sales.</p> <p>09:42:33 23 Q Okay.</p> <p>09:42:33 24 A That -- yeah. This is --</p>
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<p>09:34:14 1 experience.</p> <p>09:34:17 2 Q So if you had the -- what sales would</p> <p>09:34:21 3 you look at?</p> <p>09:34:24 4 A Well, we did break it down between</p> <p>09:34:28 5 direct response sales and commercial sales.</p> <p>09:34:36 6 Q Okay.</p> <p>09:34:36 7 MS. REED: It might be helpful</p> <p>09:34:37 8 if you just show him the document that shows the</p> <p>09:34:40 9 reserves.</p> <p>09:34:40 10 MS. FOX: Yeah. I don't have</p> <p>09:34:42 11 it</p> <p>09:34:43 12 MS. REED: I'm having it</p> <p>09:34:44 13 copied right now, if that might help. Would it</p> <p>09:34:47 14 help? Should we take a break and I get that?</p> <p>09:34:50 15 MS. FOX: Sure. If you have</p> <p>09:34:51 16 that.</p> <p>09:34:51 17 MS. REED: Okay. Let's take a</p> <p>09:34:52 18 break.</p> <p>09:34:52 19 (A recess was taken from</p> <p>09:38:02 20 9:34 to 9:41.)</p> <p>09:38:02 21 (Deposition Exhibits 362-365</p> <p>09:41:12 22 were marked.)</p> <p>09:41:12 23 Q (By Ms. Fox) The question I asked</p> <p>09:41:13 24 you is: When you have a given number of returns,</p>	<p>09:42:34 1 Q And how is that figured out? Where</p> <p>09:42:36 2 did you get that?</p> <p>09:42:37 3 A We would have based that on previous</p> <p>09:42:47 4 trends.</p> <p>09:42:47 5 Q And when you say "previous trends,"</p> <p>09:42:50 6 how did you figure those out?</p> <p>09:42:53 7 A Well, we would see our actual</p> <p>09:42:59 8 returns.</p> <p>09:42:59 9 Q Previously?</p> <p>09:43:00 10 A Correct.</p> <p>09:43:00 11 Q For the same month or --</p> <p>09:43:02 12 A No. For example, if we look at</p> <p>09:43:07 13 Exhibit 362, which is the first quarter, we would</p> <p>09:43:14 14 have looked at our actual returns that we received</p> <p>09:43:19 15 in January, February, and March, and we would say:</p> <p>09:43:25 16 Based on those returns, we expect our sales</p> <p>09:43:31 17 returns for April, May, and June to be at</p> <p>09:43:37 18 X percent of sales</p> <p>09:43:39 19 Q So you didn't take into account at</p> <p>09:43:40 20 that point that sales differ by month in the golf</p> <p>09:43:46 21 business? You sell more stuff in the spring for</p> <p>09:43:48 22 the summer season than you sell in October or</p> <p>09:43:53 23 November?</p> <p>09:43:55 24 A That's why we looked at it as</p>

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<p>09:43:56 1 a percent of sales rather than a flat dollar  09:44:00 2 amount.  09:44:01 3 Q So your assumption is that returns  09:44:03 4 will always be related to sales in the same -- at  09:44:08 5 the same percent?  09:44:13 6 A Yes.  09:44:15 7 Q Okay. And so this January, 1,059 is  09:44:20 8 the actual sales in January?  09:44:22 9 MS. REED: Looking at  09:44:23 10 Exhibit 362?  09:44:24 11 MS. FOX: I'm sorry 362,  09:44:27 12 yeah.  09:44:28 13 Q (By Ms. Fox) Those are actual sales,  09:44:30 14 1,059?  09:44:31 15 A Should have been.  09:44:34 16 Q And the expected returns is based off  09:44:42 17 December sales and returns or earlier -- or the  09:44:45 18 past January or --  09:44:47 19 A I -- I really don't recall.  09:44:56 20 Q Okay. So it's based on some kind of  09:44:59 21 past history, but you don't know what month or  09:45:01 22 whether it was based on the whole year?  09:45:04 23 MS. REED: Liz, I think he's  09:45:06 24 already testified -- he testified that he looked</p>	<p>09:46:36 1 we had the 90-day return policy.  09:46:40 2 Q Uh-huh.  09:46:40 3 A Okay. So for example, on  09:46:48 4 Exhibit 362, when I look at my January sales and  09:46:54 5 the returns that I expected on those sales -- of  09:47:00 6 the returns that I would have expected on those  09:47:04 7 sales, we were estimating that 25 percent of those  09:47:10 8 returns would come back to us within the same  09:47:19 9 month.  09:47:19 10 Q What does that mean?  09:47:23 11 A Okay. Say, for example, that we sold  09:47:23 12 a club on January 5th.  09:47:31 13 Q Okay.  09:47:31 14 A Then if it was going to be in this  09:47:34 15 25 percent, I would expect that we would have  09:47:36 16 gotten it back within January.  09:47:42 17 Q Oh, I see. In other words, these are  09:47:47 18 direct sales. Of the direct sales that you sent  09:47:50 19 out, of the returns that you would get, a quarter  09:47:53 20 of them would come back in the first month?  09:47:55 21 A By this estimation, right.  09:47:58 22 Q Right.  09:47:59 23 A And so the other estimations are the  09:48:01 24 same. So for the January returns that we</p>
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<p>09:45:10 1 at actual returns for January, February, March --  09:45:13 2 well, he actually did it on Exhibit 363. He  09:45:15 3 looked at actual returns for April, May, June, and  09:45:19 4 on that based the expected returns for July,  09:45:22 5 August, September, because we're at June.  09:45:25 6 MS. FOX: But where did he get  09:45:26 7 the expected returns for January, February, and  09:45:28 8 March? Don't you answer. Let him answer.  09:45:33 9 A Well, by March, I would have been  09:45:35 10 looking at actual returns for January and  09:45:41 11 February.  09:45:41 12 Q (By Ms. Fox) So did you for the  09:45:43 13 preceding month or two months?  09:45:49 14 A Again, I don't remember the specific  09:45:54 15 number of trailing months that we looked at.  09:45:56 16 Q But you wouldn't have looked at March  09:46:01 17 of 1997? You wouldn't go back that far?  09:46:07 18 A I -- I really don't recall.  09:46:19 19 Q Okay. Now, under that -- that line,  09:46:20 20 there's a line that says: January, February, and  09:46:23 21 March, and has percents on it. What do  09:46:28 22 those percents represent?  09:46:28 23 A Yes. And this is -- this is part of  09:46:30 24 the confusing part, but this represents -- again,</p>	<p>09:48:04 1 expected, we would expect to receive 30 percent of  09:48:08 2 those in February, 25 percent in March, and  09:48:14 3 15 percent in April.  09:48:22 4 Q Now, suppose I buy my club and I  09:48:24 5 don't get it back until May 15th, does it -- what  09:48:30 6 does Adams Golf do about that?  09:48:34 7 A Again, that was -- that was the other  09:48:37 8 side. I --  09:48:39 9 Q You don't know?  09:48:41 10 A No.  09:48:41 11 Q So if that one -- if -- I mean, I  09:48:46 12 guess they had two choices. They could send it  09:48:49 13 back to the person and bill them and expect them  09:48:51 14 to pay, but maybe they will and maybe they won't;  09:48:53 15 or they can take it as a return and return the  09:48:57 16 money?  09:48:57 17 MS. REED: Objection, calls  09:48:58 18 for speculation, if there's a question in there.  09:49:02 19 Q (By Ms. Fox) You don't know what  09:49:03 20 they do?  09:49:04 21 A No.  09:49:04 22 Q And the same, then, you could take  09:49:07 23 that out to June? Suppose I don't get around to  09:49:10 24 the post office until June. What happens to that</p>

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<p>11:30:51 1 Q Yet, is there still an accrual for</p> <p>11:30:55 2 January, February, and March somewhere in Adams</p> <p>11:30:56 3 Golf's financials?</p> <p>11:31:02 4 A Yes There was an accrual at</p> <p>11:31:05 5 March 31st.</p> <p>11:31:15 6 Q Okay. Exhibits 362 through 365 are</p> <p>11:31:18 7 broken into direct response and commercial. Are</p> <p>11:31:23 8 the direct response numbers kept separate from the</p> <p>11:31:26 9 commercial numbers?</p> <p>11:31:31 10 A The numbers --</p> <p>11:31:32 11 Q The sales numbers and returns numbers</p> <p>11:31:34 12 for direct response, are they separated from the</p> <p>11:31:38 13 sales numbers and returns numbers for commercial?</p> <p>11:31:42 14 A Yes.</p> <p>11:31:42 15 Q And therefore, if you saw higher</p> <p>11:31:44 16 returns in direct response, it would have nothing</p> <p>11:31:49 17 to do with anything that happened in commercial;</p> <p>11:31:53 18 is that correct?</p> <p>11:32:02 19 A Correct.</p> <p>11:32:02 20 Q Let's look at Exhibit 362. Based on</p> <p>11:32:07 21 your analysis here, it says: Accrual necessary --</p> <p>11:32:12 22 let's actually look at total accrual necessary,</p> <p>11:32:15 23 which includes direct response and commercial, the</p> <p>11:32:18 24 560.4, yet the general ledger balance is 572.1; is</p>	<p>11:33:39 1 Exhibits 362 through 365 and tell me if you are</p> <p>11:33:43 2 overaccrued or underaccrued for each exhibit.</p> <p>11:33:51 3 Let's start with 362. Are you</p> <p>11:33:53 4 overaccrued or underaccrued?</p> <p>11:33:55 5 A The general ledger balance is higher</p> <p>11:33:58 6 than accrual necessary.</p> <p>11:34:00 7 Q And therefore you are?</p> <p>11:34:01 8 A Overaccrued.</p> <p>11:34:05 9 Q Exhibit 363, are you overaccrued or</p> <p>11:34:08 10 underaccrued?</p> <p>11:34:10 11 A Again, the balance is higher than</p> <p>11:34:12 12 necessary, so we're overaccrued.</p> <p>11:34:14 13 Q Exhibit 364, same question?</p> <p>11:34:18 14 A Again, the same, we're overaccrued.</p> <p>11:34:20 15 Q And Exhibit 365, overaccrued or</p> <p>11:34:24 16 underaccrued?</p> <p>11:34:24 17 A Overaccrued.</p> <p>11:34:26 18 Q And therefore, looking at these</p> <p>11:34:28 19 exhibits in combination, did Adams Golf overstate</p> <p>11:34:32 20 or understate its income based on these</p> <p>11:34:37 21 overaccruals?</p> <p>11:34:37 22 A If we had adjusted the general ledger</p> <p>11:34:42 23 balance to the accrual necessary shown on the</p> <p>11:34:46 24 pages, operating income would have increased.</p>
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<p>11:32:23 1 that right?</p> <p>11:32:26 2 A Correct.</p> <p>11:32:26 3 Q And so it says you're overaccrued</p> <p>11:32:28 4 Is an overaccrual a conservative accounting or</p> <p>11:32:32 5 aggressive accounting?</p> <p>11:32:33 6 A That would be conservative.</p> <p>11:32:36 7 Q And why is that?</p> <p>11:32:39 8 A Because you have reserved more than</p> <p>11:32:43 9 what you would need to by the analysis. You have</p> <p>11:32:49 10 put more expense into the books to create that</p> <p>11:32:56 11 reserve.</p> <p>11:32:56 12 Q And so help me understand. When I'm</p> <p>11:32:59 13 looking at the financial statements, what impact</p> <p>11:33:02 14 does an accrual or reserve have on Adams Golf's</p> <p>11:33:06 15 bottom line?</p> <p>11:33:07 16 A If a -- if an accrual or a reserve</p> <p>11:33:12 17 increases, generally that would cause a decrease</p> <p>11:33:14 18 to your operating income</p> <p>11:33:20 19 Q So, if anything, Adams Golf with each</p> <p>11:33:26 20 exhibit, 362, 363, 364, and 365, report an</p> <p>11:33:35 21 overaccrual?</p> <p>11:33:35 22 MS. FOX: Object to the form</p> <p>11:33:36 23 It's a leading question.</p> <p>11:33:38 24 Q (By Ms. Reed) Okay. Can you look at</p>	<p>11:34:55 1 Q Therefore, for Exhibits 362 through</p> <p>11:34:58 2 365 combined, would you characterize this as</p> <p>11:35:02 3 conservative or aggressive accounting?</p> <p>11:35:06 4 A I would consider it conservative.</p> <p>11:35:11 5 Q Did you as the controller lean</p> <p>11:35:14 6 towards conservative accounting?</p> <p>11:35:16 7 A Yes.</p> <p>11:35:16 8 Q Why?</p> <p>11:35:25 9 A I'm just much more comfortable with</p> <p>11:35:31 10 being conservative</p> <p>11:35:35 11 Q What's the downside with being</p> <p>11:35:37 12 aggressive, if there is any?</p> <p>11:35:48 13 A If there are any -- I'm not sure how</p> <p>11:36:05 14 to -- the downside of being aggressive?</p> <p>11:36:09 15 Q Yeah. It's kind of a confusing</p> <p>11:36:11 16 question and maybe unnecessary.</p> <p>11:36:15 17 MS. REED: Let me withdraw the</p> <p>11:36:16 18 question.</p> <p>11:36:18 19 Q (By Ms. Reed) Returns from sales</p> <p>11:36:20 20 made by inside sales, the inside sales team at</p> <p>11:36:25 21 Adams Golf?</p> <p>11:36:26 22 A So for these --</p> <p>11:36:27 23 Q Would these --</p> <p>11:36:27 24 A You were talking about commercial.</p>

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SJOQUIST

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE  
- - -

IN RE: ADAMS GOLF, INC. : CONSOLIDATED  
:   
SECURITIES LITIGATION : C.A. No. 99-371 KAJ

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Tuesday, August 8, 2006  
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Oral deposition of CHARLES A. SJOQUIST, taken  
pursuant to notice, was held at the offices of AKIN,  
GUMP, STRAUSS, HAUER, AND FELD, 590 Madison Avenue,  
18th Floor, New York, New York 10022-2524 commencing  
at 10:40 a.m. on the above date before Beth A.  
Barkocy, Certified Shorthand Reporter and Notary  
Public.

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## CHARLES A. SJOQUIST

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<p>12:04:54 1 THE WITNESS: Could you repeat that  12:04:55 2 again?  12:05:10 3 (The preceding question was read  12:05:13 4 back.)  12:05:13 5 THE WITNESS: And I said it's  12:05:16 6 possible. That's correct  12:05:17 7 BY MS. FOX:  12:05:17 8 Q Is it possible that it was also that  12:05:19 9 they could have been mistaken in their assessment that  12:05:23 10 it was not material?  12:05:25 11 A. That's possible, too.  12:05:28 12 Q You don't know one way or the other?  12:05:31 13 A No.  12:05:33 14 MS. FOX: That's all the questions I  12:05:34 15 have.  12:05:36 16 MR. JAMES: Would you read back all  12:05:37 17 the questions and answers since we resumed.  12:05:37 18 I want to see how good you are  12:05:37 19 (The requested portion of testimony  12:05:37 20 was read back.)  12:08:30 21 MR. JAMES: Thanks  12:10:06 22 MS. BRANNEN: Excuse us  12:10:08 23 (Ms Brannen and Mr. James leave the  12:10:11 24 room.)  12:11:20 25 MS. BRANNEN: I have a couple of</p>	<p>12:12:40 1 that discussed the potential impact or lack of impact  12:12:46 2 of the matter in their business.  12:12:49 3 Q And so would they have inquired into  12:12:55 4 the underlying reasons for the litigation then?  12:12:58 5 A. Yes.  12:12:58 6 MS. FOX: Object to the form  12:13:02 7 MS. BRANNEN: That's it; that's all  12:13:04 8 I've got.  12:13:04 9 BY MS. FOX:  12:13:10 10 Q You don't know what analysis they  12:13:12 11 asked for in this case, do you?  12:13:14 12 A. No.  12:13:16 13 MS. FOX: Thank you.  14  15 ---  16 (Witness excused.)  17 ---  18 (Deposition concluded at 12:14 p.m.)  19 ---  20  21  22  23  24  25</p>
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<p>12:11:22 1 follow-up questions  12:11:22 2 BY MS. BRANNEN:  12:11:24 3 Q Mr. Sjoquist, in your experience,  12:11:25 4 what was the practice of the SEC staff if they thought  12:11:28 5 that more information was needed from the company  12:11:30 6 about an outstanding comment?  12:11:33 7 A They would issue follow-up comments  12:11:39 8 asking for more information.  12:11:42 9 Q If they didn't get that information,  12:11:45 10 how would that affect the registration statement?  12:11:48 11 A. If the company didn't respond?  12:11:51 12 Q Right.  12:11:51 13 A Or respond adequately?  12:11:53 14 Q. Right.  12:11:54 15 A. They would just not declare it  12:11:56 16 effective  12:11:57 17 Q And with regard to the SEC's comment  12:12:01 18 about the Costco matter in this case, in your  12:12:04 19 experience, what information, if any, would the staff  12:12:07 20 have wanted about the nature of the litigation?  12:12:10 21 A. They would have wanted some analysis  12:12:13 22 as to the ramifications to the company's business.  12:12:18 23 Whether it would be material quantitatively or have  12:12:23 24 material impact on the business going forward, some  12:12:26 25 analyst has to -- they would have wanted some analysis</p>	<p>1 CERTIFICATE  2  3 I hereby certify that the witness was  4 duly sworn by me and that the deposition is a true  5 record of the testimony given by the witness.  6  7  8  9 BETH A. BARKOCY, CSR  10 Dated: August 14, 2006  11  12  13 (The foregoing certification of this  14 transcript does not apply to any reproduction of the  15 same by any means, unless under the direct control  16 and/or supervision of the certifying shorthand  17 reporter.)  18  19  20  21  22  23  24  25</p>

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